

Calendar No. 378

107TH CONGRESS }
2d Session

SENATE

{ REPORT
107-152

**PRESIDENTIAL APPOINTMENTS
IMPROVEMENT ACT OF 2002**

R E P O R T

OF THE

**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 1811

TO AMEND THE ETHICS IN GOVERNMENT ACT OF 1978 (5 U.S.C.
APP.) TO STREAMLINE THE FINANCIAL DISCLOSURE PROCESS
FOR EXECUTIVE BRANCH EMPLOYEES



MAY 16 (legislative day, MAY 9), 2002.—Ordered to be printed

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PRESIDENTIAL APPOINTMENTS IMPROVEMENT ACT OF
2002

MAY 16 (legislative day, MAY 9), 2002.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 1811]

The Committee on Governmental Affairs, to whom was referred the bill (S. 1811) to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to streamline the financial disclosure process for executive branch employees, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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I. PURPOSE AND SUMMARY

S. 1811, the Presidential Appointments Improvement Act of 2002, is a bipartisan bill to improve the Presidential appointment process without violating the spirit and letter of the conflict of interest laws and to provide a newly elected President the ability to submit nominations to the Senate for Presidential appointments as

expeditiously as possible after the President takes office. As Senator Thompson, the bill's chief sponsor, stated, "The Presidential appointments process is unnecessarily long, burdensome, and complex." The bill streamlines the financial disclosure requirements for high level executive branch nominees and employees. It also strengthens existing disclosure requirements by: requiring newly appointed officials who have not complied with an ethics agreement within the original time specified to file a monthly notification of the status of their steps to comply until all terms of the agreement have been met; and requiring the Office of Government Ethics ("OGE") to post a monthly notice of any high level employees who received waivers of certain conflict of interest laws in the previous month. In addition, the legislation provides key information regarding Presidentially appointed positions to the major party Presidential candidates shortly after they are nominated, directs agencies to recommend which positions requiring Senate confirmation within the agency could be eliminated, and asks OGE, in conjunction with the Attorney General, to conduct a comprehensive review of conflict of interest laws relating to Federal employment.

II. BACKGROUND

CREATION OF PUBLIC FINANCIAL DISCLOSURE REQUIREMENTS

The Ethics in Government Act of 1978, as amended, 5 U.S.C. App. §101 et seq., was enacted to require high level officials and employees in the executive, legislative and judicial branches of the Federal government to disclose in a public report information about their income, assets and liabilities. The purposes of this law included "increas[ing] public confidence in the government" and "demonstrat[ing] the high level of integrity of the vast majority of public officials." S. Rpt. 95-170, at 21. Consequently, a goal of this disclosure is "to identify potential conflicts of interest or situations that might present the appearance of a conflict of interest." S. Rpt. 95-170, at 117. Those required to file reports under the current law include, among others, the President and Vice President, high level White House staff, all officers and employees in the executive branch in positions classified above GS-15, high-ranking officials and employees of the United States Postal Service, Members of Congress and top legislative branch officers and employees, Supreme Court Justices, Federal appellate and district court judges, judges in other courts created by Congress, and high-ranking staff in the judicial branch.

The 1978 law required the disclosure of holdings, liabilities and transactions using categories of value rather than an exact value of the property, liability or transaction involved. "[T]he use of categories of value fully meets the legitimate public purpose of identifying potential conflicts and the magnitude of those conflicts, while not requiring a yearly appraisal of each holding and also minimizing the invasion of privacy involved." S. Rpt. 95-170, at 117. The original law had categories of value up to \$100,000 or more for income, and greater than \$250,000 for assets, liabilities and transactions. The Ethics Reform Act of 1989, P.L. 101-194, added three new categories at the upper end for assets, liabilities and transactions, covering values of greater than \$1,000,000, and two new categories of income, also requiring disclosure of up to \$1,000,000

or more. Additional increases in these upper categories were made in 1995, in the Lobbying Disclosure Act, P.L. 104-65. Two new categories were added for income, requiring disclosure up to \$5,000,000 or more, and four new categories were created for assets, liabilities and transactions, requiring disclosure of values up to \$50,000,000 or more. These categories are in effect today.

THE NEED FOR CHANGES IN EXECUTIVE BRANCH FINANCIAL DISCLOSURE

High level executive branch employees have been required since 1978 to file financial disclosure reports in connection with their entrance into government and thereafter on an annual basis. P.L. 95-521. Those subject to this requirement include individuals nominated by the President to serve in high level executive branch positions.

The Constitution of the United States authorizes the President to nominate and, by and with the advice and consent of the Senate, appoint officers of the United States. In recent years, various aspects of the process by which the President selects nominees and the Senate confirms them have been criticized as unnecessarily difficult and slow.

Since the mid-1980's, nearly a dozen major studies, including several Presidential Commissions, have examined the need for changes in the process a President uses to nominate individuals who will serve in high-level executive branch positions in his Administration. The Committee has compiled a summary of the findings of these reports, which is reprinted in the hearing record for its April 2001 hearings on the State of the Presidential Appointment Process. S. Hrg. 107-118. A number of these reports make the case that the myriad of paperwork required by the different offices involved in vetting the President's executive branch nominees needs to be condensed into standardized forms. In addition, many of the commissions come to the conclusion that the financial disclosure requirements for these positions should be streamlined.

In the two years leading up to the Presidential election of 2000, a number of think tanks and academics, including the Brookings Institute's Presidential Appointee Initiative, the American Enterprise Institute's Transition to Governing Project, and the White House 2001 project, began looking at the issues surrounding the transition to a new Presidential administration. Their studies identified a number of obstacles that made it difficult for a new President to put his new Administration in place in an expeditious fashion. They expressed considerable concern over the increasing amount of time needed in successive administrations since the Reagan Administration to nominate and confirm new high level executive branch appointees. These groups identified aspects of the Presidential appointment process that they believed slowed this process unnecessarily and imposed burdens on prospective nominees. These groups expressed concern that, absent changes to improve this process, future Presidents would find it increasingly hard to encourage qualified individuals to serve in the executive branch.

As a result of these efforts, the Committee received many recommendations designed to speed up the appointment process. A key recommendation from many sources was to streamline the fi-

nancial disclosure requirements for those executive branch nominees who report under the provisions of the Ethics in Government Act of 1978 (5 U.S.C. App. § 101(b)). A survey conducted by the Presidential Appointee Initiative of senior level appointees from the Reagan, George H. W. Bush and Clinton Administrations showed that in each successive administration, appointees found the existing financial disclosure requirements more burdensome and difficult to meet. Others agreed that the current requirements seek more information than may be necessary to determine whether conflicts exist for executive branch employees. Scott Harshbarger of Common Cause stated, in testimony before the Committee, "The disclosure form needs to contain all the information necessary to identify potential conflicts [of interest.] It does not need to be a net worth statement." S. Hrg. 107-118, at 30.

III. DISCUSSION OF LEGISLATION

EXECUTIVE BRANCH FINANCIAL DISCLOSURE

S. 1811 simplifies financial disclosure reporting by high level executive branch nominees and employees, including the President and Vice President, high level White House staff, all officers and employees in positions classified above GS-15, and high-ranking officials and employees of the United States Postal Service. It substantially reduces the amount of detail these high level nominees and employees are required to provide regarding their sources of income, assets and liabilities, although it requires the reporting of sufficient information on the forms to ensure that the existence of potential conflicts of interest can be determined. In addition, while S. 1811 reduces the amount of detail a high level executive branch nominee or employee must report regarding financial interests, it is important to note that OGE, the relevant Department Secretary, or designated agency ethics official retains the ability under Section 206 to require the individual to provide additional information needed to complete the form or perform a conflict of interest analysis.

One of the significant areas of change is in the categories of value used to report income, assets and liabilities. By raising the minimum thresholds for reporting, lowering the top valuation categories and reducing the number of categories overall, S. 1811 simplifies the financial disclosure forms and limits the privacy intrusion occasioned by making these forms public. These reductions put the focus back on the use of the forms for conflict of interest determinations rather than as statements of net worth.

Under current law, sources of investment income must be reported under one of ten categories, once the income from that source exceeds \$200 during the reporting period. The top category of value is \$5,000,000 or greater. In addition, filers must report the exact amount of all other income, such as earned income and honoraria, instead of using the categories of value for these sources. S. 1811 requires that all income be treated (other than honoraria received while in government service) the same, the threshold for reporting income be raised to \$500 and the number of categories of value be reduced from 10 to 5, with a maximum category of "over \$2,500,000."

The threshold for reporting assets is increased from \$1001 to \$5001, while the number of categories of value a filer must use to report assets is reduced from 11 to 5. The maximum category for reporting assets is also lowered, from the current “over \$50,000,000” to “greater than \$2,500,000.”

Current law requires reporting of liabilities using 11 categories of value, ranging from a threshold of \$10,001 to “over \$50,000,000.” S. 1811 would raise the threshold for reporting liabilities to those which exceed \$20,000, although if the aggregate amount owed by a nominee seeking Senate confirmation on all revolving charge accounts held exceeds \$20,000 as of any date within 30 days of filing the report, the nominee must report that total as a liability. The number of categories of value that must be used for reporting liabilities is reduced to 4, with a top category of “over \$1,000,000.”

S. 1811 also reduces the burden of reporting under current law in several other respects. For example, it eliminates the current requirement to report the itinerary of “reimbursed” trips paid for by non-government entities (while retaining disclosure of information on dates and sources of reimbursement), simplifies the reporting of transactions involving real property or securities, reduces under certain circumstances the amount of information a new filer must provide about his or her private sector clients, and conforms the requirements for reporting a spouse’s investment and non-investment income to those used by the filer. It also substantially raises the threshold for reporting deposit accounts in a financial institution and government securities to \$100,000. Under current law, deposit accounts over \$5000 must be reported as assets, and government securities worth more than \$1000 must be disclosed as personal property.

Although these changes will under certain circumstances result in less detailed information about the financial interests of executive branch nominees and employees, OGE has informed the Committee that the information to be reported under these provisions will be more than sufficient to determine whether conflicts of interest exist. The information reported will still indicate whether the filer has income or assets worth as much as \$2,500,000 or more and liabilities of \$1,000,000 or more, amounts that will enable a reviewer to determine whether any of these interests might present a conflict with the filer’s job responsibilities.

Once conflicts are identified, it is important to note that current law already provides safeguards to ensure that high level executive branch employees cannot take official action on matters that would affect their personal financial interests. If an incoming executive branch nominee or employee has holdings or other financial interests that raise conflict concerns, the OGE or the designated agency ethics official can require the individual to take one of a number of different actions to avoid conflicts while in office. (Those entering Federal service can be required to sign an agreement with the employing agency regarding what action they will take to eliminate or avoid conflicts while in office; one Senate committee asks nominees to agree to divest all holdings as a condition of confirmation. 5 CFR Part 2634, Subpart H.) The action required is determined on a case-by-case basis depending on the duties of the position and the nature and extent of the holdings. If the disqualification to act due to an individual’s financial interest is so basic to the responsibil-

ities of the position that it would impede the government's ability to get the services it expects from that individual, the individual can be required to divest that interest in order to hold that position. 5 CFR Part 2635, Subpart D. Other actions that can be required include recusal from any action that would present a conflict or creating a blind trust. 18 U.S.C. § 208; 5 CFR 2634.802. An individual can also seek a waiver of the ethics rules under certain circumstances. *Id.*

The combination of financial disclosure, as required by S. 1811, and the safeguards current law already has in place to preclude executive branch officers and employees from acting on matters that could affect their financial interests, will continue to serve the purposes for which the Ethics in Government Act was originally designed. These provisions will maintain public confidence in the government and deter conflicts of interest from arising.

LEGISLATIVE AND JUDICIAL BRANCH REPORTING

Under current law, financial disclosure by all three branches of the Federal government is subject to the same set of requirements. 5 U.S.C. App. § 101 et seq. However, because the record before the Committee focused exclusively on the issues regarding financial disclosure by executive branch nominees and employees, and the recommendations the Committee received raised concerns solely regarding the impact of the current requirements on executive branch nominees and employees, S. 1811 does not make any changes in such reporting for the legislative or judicial branches.

There are also differences in the actions that employees in the legislative and judicial branches, in comparison to employees in the executive branch, may be required to take based on financial disclosure information. Executive branch officers and employees are subject to an array of remedies, such as divestiture and blind trusts, that ensure that these individuals do not act on matters that could affect their financial interests. In contrast, the Senate Ethics rules provide for greater discretion. As the Senate Ethics Manual explains, "[f]inancial interests and investments of Members and employees * * * may present conflicts of interest with official duties. Members and employees * * * need not, however, divest themselves of assets upon assuming their positions, nor must Members disqualify themselves from voting on issues that generally affect their personal financial interests [NB: except in the unusual situation in which a bill is designed to affect a limited class of people that would include the Member or the Member's family.] Instead, public financial disclosure provides the mechanism for monitoring and deterring conflicts." S. Pub. 106-40 (2000). Financial disclosure also continues to serve an important function in deterring conflicts of interest for Federal judges, who are not under any obligation to divest any financial holdings while serving but must recuse themselves if they determine that a matter before the court presents a conflict with their financial or fiduciary interests. 28 U.S.C. § 455. While these differences may not rule out changes in financial disclosure for the legislative or judicial branches, the issues presented for those two branches warrant separate study beyond the scope of the Committee's inquiry at this time.

PUBLIC NOTICE OF WAIVERS

Under the Federal criminal laws, an executive branch employee is prohibited from participating in any official matter in which the employee's financial interest could be directly affected. 18 U.S.C. §208(a). An executive branch employee may seek a waiver of this criminal conflict of interest statute in cases in which there might be a potential appearance of, but not actual, personal self-dealing. 18 U.S.C. §208(b). If a waiver is granted, the employee may participate in the matter that otherwise appeared to present a conflict. The statutory test for issuing a waiver requires a determination by a third person, such as a designated agency ethics official, before the employee takes any action on the matter, that the employee's financial interest in the matter on which he would act "is not so substantial as to be deemed likely to affect his services [in that matter]." 18 U.S.C. §208(b). Waivers are required by law to be publicly available. 18 U.S.C. §208(d). However, obtaining access to these waivers is not an easy process, as an interested person must request a copy of the waiver granted to a specific employee from the relevant agency. This requires the requestor to know in advance that an individual has received a waiver and which agency to approach; there is no index one can search to obtain this information.

S. 1811 improves the public's ability to access waivers in two ways. First, it requires agencies to provide OGE with a monthly list of high level employees who have received waivers. OGE will then post the list on the Internet along with a list of any waivers granted by OGE itself. This will allow interested parties to seek copies of waivers more easily. In addition, the legislation requires filers to attach copies of any waivers they have received in the previous year to the next report they file.

It is important to understand that granting a waiver is an acknowledgment by OGE or the employing agency that the individual's financial interest is not a bar to acting on a matter that could otherwise appear to be a conflict. Moreover, waivers are only one mechanism used by the executive branch to resolve potential and actual conflicts of interest; others include divestiture, recusal and blind trusts. OGE can, and perhaps should, provide an explanation of the significance of waivers in the context of the larger financial disclosure requirements when it provides the disclosure required by the legislation on its website, so that its monthly Internet posting is correctly understood and used by the public.

NOTICE OF FAILURE TO SATISFY ETHICS AGREEMENT

High level executive branch nominees subject to Senate confirmation complete the public financial disclosure form as part of the nomination process. Other high level executive branch employees file a public financial disclosure form within 30 days of entering the covered position. If an employee's or nominee's financial interests will create a conflict of interest with the job responsibilities the individual is expected to perform, the employing agency can require the individual to sign an agreement to take action to remove the conflicts. 5 CFR 2634 Subpart H. The actions specified in the agreement, such as divestiture, must occur by the end of a period stated in the agreement or, if no time is stated, within 90 days

after the date of the agreement. 5 U.S.C. App. § 110. At the end of the time specified, the individual must notify the entity with which the agreement is made of any action taken by the individual pursuant to the agreement. *Id.* If, however, all the terms of the agreement have not been satisfied within the time provided, there is no requirement that the individual continue reporting and no routine way to ascertain if the agreement has been fulfilled prior to the next due financial disclosure report.

In short, current law leaves a gap in the ability of agency ethics officers to monitor ethics agreements with the goal of ensuring that an individual does not take official action on matters that present a conflict with his financial interests. To address this concern, and ensure that ethics agreements can be properly monitored, S. 1811 requires individuals who have not met all the terms of their agreements within the time required to continue filing on a monthly basis notification of their failure to comply until all of the terms of the agreement have been met.

OTHER PROVISIONS

The Committee received many recommendations for changes to the Presidential appointment process in addition to the suggestions to streamline the executive branch financial disclosure requirements. S. 1811 addresses a number of these issues in addition to the financial disclosure provisions that are the main focus of this legislation.

Several reports suggested that the number of Presidentially appointed positions be reduced as one way to both streamline the bureaucracy and speed the confirmation process. Although the legislation does not establish a limit on the number of such positions, it does require executive branch agencies to report to the President and to Congress on the number and layers of Presidentially appointed positions within that agency that could be eliminated. Agencies have 180 days from the date of enactment of the legislation to submit this plan.

In addition, S. 1811 requires the Executive Clerk of the White House to provide information to the major party nominees for President on all positions which are appointed by the President, including the names of any incumbents in those positions, whether any vacancies exist in any positions, and when appointments to these positions will be necessary after the date of the Presidential election to ensure the effective operation of the government. This information, which the Executive Clerk may also provide to any other candidate for President, will help encourage a smooth and quick transition to a new Administration. It puts essential information regarding the positions that will need to be filled if the candidate is elected in the hands of each Presidential candidate at an early point, and therefore encourages the candidate to think during the campaign about who should be selected for those positions.

Finally, S. 1811 directs OGE, in conjunction with the Attorney General of the United States, to conduct a comprehensive review of the conflict of interest laws relating to executive branch employment. OGE must submit this report to the President and the Congress within 180 days after the date of enactment of this legislation. The review must cover the criminal and civil conflict of interest laws, and any regulations promulgated under the Ethics in

Government Act, and should make recommendations for legislative changes that would provide for better coordination of these laws, and more uniformity, efficiency and clarity in their application and administration.

IV. LEGISLATIVE HISTORY

On June 14, 2000, the Committee reported out S. 2705, the Thompson-Lieberman Presidential Transition Act of 2000, which sought to smooth the transition to a new Presidential Administration by allowing the use of Presidential transition funds to hold orientation sessions for new high-level appointees and to prepare a transition directory to guide new appointments. S. 2705 also directed OGE to conduct a study of the financial disclosure requirements for executive branch nominees and appointees. The provisions of S. 2705 were incorporated into H.R. 4931, which was passed in the Senate by unanimous consent on September 28, 2000 and signed into law by the President on October 12, 2000 as P.L. 106–293.

On April 4 and 5, 2001, the Committee held two days of hearings on the state of the Presidential appointment process. In its testimony, OGE presented the report required by the Presidential Transition Act, and offered its suggestions for streamlining the financial disclosure process for executive branch nominees and employees. The report identified instances in which the information on the SF 278, the financial disclosure form used by high level executive branch nominees and employees, sought the same or similar information sought by other forms used during the confirmation process, including forms nominees are asked to complete for the White House, the Federal Bureau of Investigation and Senate confirming committees. In addition, the OGE report noted that:

Public financial disclosure by high-level Government employees was introduced into law to provide a tool for identifying and resolving potential conflicts of interest and to increase public confidence in the Government. It is fundamental to the executive branch ethics program. The current public financial disclosure system, however, requires reporting more information than is useful or necessary to achieve its fundamental goals. * * * [U]nnecessary detail could be eliminated without “lessening substantive compliance with any conflict of interest requirement.”

OGE recommended streamlining executive branch financial disclosure along the general principles ultimately included in S. 1811: reducing the number of income, assets and liability valuation categories, shortening some of the time periods the reporting must cover, raising the dollar thresholds for reporting financial holdings, and eliminating what OGE considered redundant reporting. In OGE’s view, the current requirements exceed what is necessary to determine whether an executive branch nominee’s or employee’s finances present potential conflicts of interest, particularly in light of the other safeguards in place to ensure the absence of such conflicts for those in the executive branch, such as agreements to divest holdings upon confirmation, recusal, and waivers. OGE also recommended that the Senate confirming committees re-evaluate

their own financial disclosure forms to avoid some of the duplication and overlap with other forms nominees must complete.

Other witnesses at the April hearing, including Paul Light and Franklin D. Raines, who testified on behalf of the Presidential Appointee Initiative, and Norman J. Ornstein, who appeared on behalf of the Transition to Governing Project, supported reductions in financial disclosure requirements for high level executive branch employees. Scott Harshbarger, testifying on behalf of Common Cause, expressed the view that while some changes were warranted, OGE's proposal was too drastic in scope. In an April 30, 2001 letter to then-Chairman Thompson following the hearing, Common Cause proposed finding a middle ground between the current 11 categories of valuation nominees must use to report their holdings, and the three new categories suggested by OGE. Common Cause also urged the Committee to use a higher maximum category of value for assets and income than the "over \$100,000" category proposed by OGE.

S. 1811 responds to the issues that have been raised regarding executive branch financial disclosure by substantially reducing the amount of detail high level nominees and Federal employees are required to provide regarding their sources of income, assets and liabilities, although retaining sufficient information on the forms to ensure that the existence of potential conflicts of interest can be determined. In doing so, the legislation strikes a balance between the extensive information that must be reported under current law and the considerably more limited set of standards proposed by OGE. S. 1811 is also responsive to some of the other issues regarding the Presidential appointment process that were cited in the hearing testimony, such as the growing number of Presidentially-appointed positions requiring Senate confirmation, and the need of Presidential candidates to have accurate information regarding positions requiring Presidential appointment as early as possible to help speed and smooth the transition to a new Administration.

Senators Thompson and Lieberman introduced this legislation on December 12, 2001, with Senators Akaka, Durbin, Voinovich and Lugar as co-sponsors. At the Committee's March 21, 2002 markup, Senators Akaka and Voinovich offered an amendment making several technical corrections in the bill, which the Committee adopted by a voice vote with no nays. The Committee reported S. 1811 as amended by voice vote, with no nays. Members present were Levin, Akaka, Cleland, Thompson, Stevens, Voinovich, Cochran, Bennett and Lieberman.

V. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Presidential Appointments Improvement Act of 2002."

Section 2. Purposes

This section sets forth the purposes of the bill: to improve the Presidential appointment process without violating the spirit and letter of the conflict of interest laws and to provide a newly elected President the ability to submit all nominations to the Senate for all

Presidential appointments as expeditiously as possible after the President takes office.

Section 3. Public financial disclosure for judicial and legislative personnel

The legislation separates financial disclosure reporting requirements for the executive branch from those applying to the legislative and judicial branches. Section 3 sets forth the public financial disclosure requirements which apply to employees in the judicial and legislative branches, but makes no substantive change to current law with respect to these employees. The primary change to current law made by section 3 is that Title I of the Ethics in Government Act no longer applies to officers and employees of the Executive Branch. Executive Branch employees are covered by a new Title II (established in section 4 of this bill).

In addition, references to the Office of Technology Assessment have been deleted from sections 103(b)(1)(A)(i)(II) and 109(9)(H) of 5 U.S.C. App. because this Office no longer exists. Section 109(9)(H) adds the Office of Compliance to the list of legislative branch components covered by the Act.

Section 4. Public financial disclosure for the executive branch

This section sets forth the public financial disclosure requirements for Executive Branch personnel by creating a new Title II of the Ethics in Government Act of 1978. This title streamlines financial disclosure for the executive branch, while maintaining sufficient reporting to ensure that the existence of conflicts of interest can be determined. While the Act reduces the amount of detail a high level executive branch nominee or employee must report regarding financial interests, it is important to note that the Office of Government Ethics (“OGE”), Department Secretary, or designated agency ethics official retains the ability under Section 206 to require the individual to provide additional information needed to complete the form or perform a conflict of interest analysis. The legislation restates current law except as specifically noted below.

Title II—Section 201. Persons Required to File.—Subsection 201(c)(2) requires that an individual who is sworn in as President or Vice President and who did not hold either of those two positions immediately before taking the oath of office shall file a financial disclosure report within 30 days of taking the oath. This section is intended to make clear that a newly-elected President or Vice President or an individual who takes the oath of office of either of those two positions outside the normal election cycle shall file a report within 30 days of taking the oath to give the public timely information regarding the financial interests of these two officials. An individual who is re-elected as President or Vice President, or a sitting Vice President who is elected President, would not be affected by this provision and would continue to file annually on May 15.

Subsection 201(e) makes clear that an individual who moves from any position in the executive branch covered by these reporting requirements to any elected position in either the executive or legislative branches need not file a termination report for the first position. The subsection retains its current exemption from filing termination reports for individuals who move from any covered position to any other covered, non-elected position.

Subsection 201(f)(6) clarifies which officers or employees of the Postal Service are required to file by referencing the levels of the Postal Career Executive Service rather than an amount of basic pay. Officers and employees of the Postal Rate Commission who are required to file continue to be referenced by amounts of basic pay.

Section 202. Contents of Reports.—Subsection 202(a)(1)(A) simplifies the reporting of any income, such as earned income and honoraria, that is not derived from investments. Instead of reporting exact amounts for these sources, filers will use the same categories of value used for the reporting of investment income. However, filers are required to continue to report the exact value and date of honoraria received during government service. This subsection also changes current law by eliminating the requirement for filers to list all payments made to charitable organizations in lieu of honoraria as well as the requirement to provide a confidential list of the recipients of such payments. Finally, the subsection raises the threshold on reporting income from “\$200 or more” to “more than \$500.”

Subsection 202(a)(1)(B) changes the current disclosure requirement for investment income to allow all investment income, rather than just dividends, rents, interest and capital gains, to be reported by category of amount. Previously, any other investment income, such as that derived from partnership or trust distributions, was required to be reported by exact amount. The subsection also raises the reporting threshold from \$200 to more than \$500.

Subsection 202(a)(1)(C) reduces the number of categories used for reporting the value of investment income from 10 to 5. This subsection reflects OGE’s advice to the Committee that these reporting categories provide adequate information to assess an executive branch filer’s potential conflicts of interest. These same categories apply to earned income.

Subsection 202(a)(2)(B) makes a slight change to current law regarding the reporting of reimbursements by eliminating the requirement to report the itinerary of a “reimbursed” trip paid for by a non-government entity. However, filers will continue to report the dates of travel. The subsection also retains all current requirements to provide the source and a brief description of reimbursements aggregating more than the minimal value established under section 7342(a)(5), Title 5, United States Code, or \$250, whichever is greater.

Subsection 202(a)(3) updates current requirements by raising the general threshold of reportable assets to \$5,000, increasing the threshold reporting requirement for deposit accounts in a financial institution from \$5,000 to \$100,000, and by creating a new threshold of \$100,000 for government securities. Currently, government securities are treated like other personal property with a \$1,000 reporting threshold. The changes made to the latter two reporting requirements reflect OGE’s advice to the Committee that these assets rarely present conflicts of interest per se, although public disclosure is still required at higher amounts. In the unusual case where a conflict might exist, OGE has advised the Committee that the bill requires sufficient disclosure to allow a conflict determination to be made.

Subsection 202(a)(4) raises the disclosure threshold for liabilities from \$10,000 to \$20,000. Additionally, the subsection adds, for Senate-confirmed nominees only, the requirement to report the aggregate balance of all revolving accounts (i.e., credit cards) if the sum of those balances exceeds the \$20,000 threshold. This change is intended to provide a more accurate picture of a nominee's credit card debt. Currently, large amounts of credit card debt can remain undisclosed as long as the amount due for each individual card remains below the liability reporting threshold. This information will be helpful to those reviewing a nominee's finances and who need a clearer picture of the nominee's total liabilities.

Subsection 202(a)(5) modifies transaction reporting requirements, which currently mandate the description, date, and category of value of any purchase, sale or exchange of real property or a security which exceeds \$1,000. The new subsection simplifies the current provision by requiring only a description of transactions above \$5,000 that are not already reported elsewhere. It will also continue to apply to annual filers only. This subsection reflects OGE's advice to the Committee that sufficient conflict of interest analysis generally can be conducted without a precise transaction date or category of value. The subsection also eliminates redundant reporting by not requiring a transaction to be listed if it already appears on the form as either an asset or income.

Subsection 202(a)(6)(A) shortens the reporting period (for first-time filers) for major positions held in organizations other than the Federal government. Currently, first-time filers must report all major positions held in such organizations during the previous two years plus the current year. This subsection changes the reporting period to the previous year plus the current year. Annual filers are unaffected and will continue to report major positions held during the previous year. The change for first-time filers reflects OGE's advice to the Committee that there is rarely a conflict of interest justification requiring public disclosure of outside positions held prior to that time and that, in cases in which questions may remain, reviewers have broad authority to request as much additional information as they need.

Subsection 202(a)(6)(B) modifies current requirements by raising the threshold for reporting information about a new filer's major clients to include only those who paid the reporting individual \$25,000 or more during a calendar year; by shortening the reporting period from the previous two years plus the current year to the previous year plus the current year; by allowing the filer to avoid listing such clients if they already appear on the form as a source of earned income; and by adding an additional exemption from reporting information in cases in which the client had a reasonable expectation of privacy. OGE has advised the Committee that, while conflict of interest analysis should continue to consider major clients, the current threshold of \$5,000 for requiring information on major clients is too low. OGE's advice is that there has been a rise in billing fees since 1978 that would make a \$5000 a year client no longer "major" in today's business environment for conflict of interest purposes.

Subsection 202(a)(7) changes current law by eliminating the requirement to list the dates of most agreements between the filer and a prior employer, such as an agreement regarding the filer's

continuing participation in the employer's benefit plans. The only date which is required by this subsection is that of a formal agreement for future employment. Filers are still required to describe the parties to and terms of all agreements with a prior employer. This change is based on OGE's advice to the Committee that most agreement dates are of limited use in establishing the existence of a conflict of interest.

Subsection 202(a)(8) does not change the current law's requirement that the total cash value of a blind trust must be reported by category of amount, but does delete a reference to blind trusts executed prior to July 24, 1995 for which the trust document prohibited the beneficiary from receiving this information. According to OGE, such trusts no longer exist.

Subsection 202(b)(1) outlines the reporting periods for Presidential candidates, nominees to Senate-confirmed positions, and new filers who have not previously filed a financial disclosure form (as the holder of a prior, covered position). The subsection makes no change to current law except to reiterate that, in accordance with the changes made by subsections 202(a)(6)(A) and (B), positions held and client information must be reported only for the preceding calendar year plus the current calendar year.

Subsection 202(c)(1) authorizes OGE to define an additional reporting period, by regulation, to fill a reporting gap that can occur between a nominee's or new entrant's report and the first annual report the individual is required to file.

Subsection 202(d)(1) reduces the current eleven asset valuation categories to five. The Committee has been advised by OGE that these 5 categories provide sufficient information to determine whether or not a filer has a conflict of interest.

Subsection 202(d)(3) establishes new categories of value for reporting liabilities and qualified blind trusts; previously, both were reported using the same categories as assets and transactions. The subsection provides for four categories instead of the eleven in current law. The Committee has been advised by OGE that these 4 categories give adequate information to assess whether or not a filer has a conflict of interest.

Subsection 202(e)(1)(A) simplifies the non-investment income reporting requirements for spouses to conform those outlined in sections 202 (a)(1)(A) and (a)(1)(C), allowing spouses to report all such income in valuation categories rather than by exact amount. Spouses, however, do not share the filer's requirement to report exact amounts of honoraria earned while in government service. The subsection also lowers the current threshold for reportable spousal income from \$1,000 to \$500. These changes are intended to harmonize the dollar thresholds between filer and spouse and to ease the reporting burden in general.

Subsection 202(e)(1)(B) modifies current law to conform to the changes made to sections (a)(1)(B) and (a)(1)(C), by allowing a spouse to report all investment income by valuation category and to utilize a reduced number of these categories. These changes are intended to harmonize the dollar thresholds between filer and spouse and to mirror the filer's reduced reporting burden.

Subsection 202(e)(1)(F) eliminates a separate value category for assets, liabilities, and income greater than \$1,000,000 if held solely (as opposed to jointly with the filer) by dependent children or a

spouse. This change is intended to help make the reporting categories for filer and spouse identical.

Subsection 202(f)(3) generally retains the current definition of “qualified blind trust” except that a reference to trusts qualified prior to January 1, 1991 would be eliminated. According to OGE, such trusts no longer exist.

Subsection 202(f)(5) changes current filing requirements regarding qualified blind trusts by deleting a requirement that the filer provide a public copy of a list of the trust assets with OGE upon dissolution of the trust. This change reflects OGE’s advice to the Committee that current law, which prevents the filer from knowing which assets the trustee has decided to invest in, is sufficient to prevent any conflicts of interest. In special cases in which the filer deliberately transfers assets to a blind trust in order to preempt a conflict, current law already requires that a list of those assets be made public. Finally, the trustee of the trust provides public notification as assets that the filer placed in the trust are sold. Therefore, the deleted requirement has no useful purpose in conflict of interest analysis; holdings that might present potential conflicts are already a matter of public record.

Subsection 202(f)(9)(A) establishes the criteria that must be met by a new filer or a nominee to a Senate-confirmed position in order not to disclose the assets of certain trust and investment funds that otherwise would be required on a financial disclosure form. Under this subsection, a new filer or nominee is not required to disclose these assets when all of the following three conditions are met: reporting would result in the disclosure of financial information of another not otherwise required to report, disclosure of the information is prohibited by contract or the information is not be otherwise publicly available, and the reporting individual agrees to divest the interest within 90 days of the date of the agreement. This provision is included to address the reporting requirements for investment vehicles such as limited partnerships in which the filer may not have specific information about the underlying holdings of the fund necessary to complete a financial disclosure form; in which the investment manager does not ordinarily disclose the investments; or in which other investors do not want the identity of their investments disclosed. In these cases, OGE has advised the Committee that the filer’s agreement to divest, and interim recusals when necessary, adequately address conflict of interest concerns. A copy of the agreement is required to be attached to the financial disclosure report.

Subsection 202(f)(9)(B) makes the exemption in paragraph (A) above applicable to annual and termination filers in situations where the asset has been acquired involuntarily, such as through marriage or inheritance. Annual filers must execute the same written ethics agreement containing a commitment to divest the asset no later than 90 days after the date on which the report is due.

Subsection 202(j) requires that designated agency ethics officials (DAEOs) submit, on a monthly basis, a list of recently granted waivers of criminal conflict of interest laws to OGE. The subsection then requires that OGE make publicly available on the Internet notice of these waivers and of any waivers OGE itself has granted. By law (18 U.S.C. 208(d)(1)), these waivers are available to the public. In practice, however, the granting of such waivers is not an-

nounced; therefore, interested outside parties are rarely aware that they are available for review. The subsection is intended to address this access issue by creating a system of public notification. Because waivers can be granted by both DAEs and OGE, the subsection requires DAEs to report the granting of waivers to OGE and then assigns to OGE the responsibility for publishing all waiver notices.

Subsection 202(k) requires that waivers be included with the financial disclosure form for the year in which they were granted. By establishing a uniform policy for waiver filing, the subsection is intended to improve public access to waivers and to be complementary to subsection 202(j) above, which lays out a uniform policy for waiver notification.

Subsection 202(l) requires OGE to provide upon request any waiver which OGE itself has granted and notice of which has been published in accordance with subsection (k) above. This subsection is intended to reaffirm the public's ability to access these waivers. It should be noted that all waivers, whether on file with OGE or an employing agency, must be made available to the public on request in accordance with 18 U.S.C. §208(d).

Section 203. Filing of Reports.—Subsection 203(b) does not change current requirements for the President and Vice President to file reports with OGE, but does eliminate the requirement for the Independent Counsels and their staffs to file with OGE.

Section 204. Failure to File or Filing False Reports.—Subsection 204(d)(1) raises the current late filing fee from \$200 to \$500. Subsection 204(d)(2) modifies the current standard for a waiver for a late filing fee from “extraordinary circumstances” to “good cause shown.” OGE has reported to the Committee that its experience has demonstrated that a “good cause” test is more appropriate in cases in which OGE believes that the fee should be waived, particularly when the failure to file on a timely basis has not been the fault of the filer.

Section 206. Review of Reports.—Subsection 206(b)(2)(A) clarifies that a reviewer may request additional information if the reviewer believes it is necessary for the form to be complete or for conflicts of interest analysis. The standard set in current law is more general, allowing the reviewer to request more information whenever the reviewer believes it is necessary.

Section 208. Authority of the Comptroller General.—This section eliminates the requirement that the Comptroller General conduct regular studies of the financial disclosure system. The elimination of this requirement is consistent with efforts to eliminate unnecessary periodic government reports, but does not in any way affect the Comptroller General's authority to conduct such studies on an as needed or requested basis. Under 31 U.S.C. §716, agencies must make all agency records available to the Comptroller General on request.

Section 209. Definitions.—Current definitions remain the same except: (1) “gift” no longer includes an exception for consumable products provided by home-State businesses because of its primary relevance for Members of Congress (who are now covered by Title I); (2) “gift” includes an exception for gifts accepted or reported pursuant to the Foreign Gifts Act; (3) “honoraria” no longer references a section of law that has been ruled unconstitutional for the execu-

tive branch and, instead, is defined as a thing of value for a speech, article or appearance; and (4) “income” includes prizes and awards as a part of the items that are considered income.

Section 210. Notice of Actions Taken to Comply with Ethics Agreements.—Subsection 210(a) adds a continuing monthly reporting requirement regarding the status of steps taken to comply with an ethics agreement until all terms of the agreement have been met. Under current law, an individual who has agreed to take certain actions in order to avoid conflicts of interest is required to file only one notification of the actions that have been taken under the agreement, which must be filed by the end of the period stated in the agreement or, if no period is stated, within 90 days after the date of the agreement, even if the terms of the agreement have not yet been met.

Section 5. Transmittal of record relating to presidentially appointed positions to presidential candidates

This section requires the Executive Clerk of the White House to transmit a list of all presidentially-appointed positions to the major party presidential candidates after their respective nominating conventions. After this is complete, the Clerk may then transmit the list to any other presidential candidates. Under current law, such a list can only be provided to the President-elect after the November election. This provision is intended to speed the identification and vetting of major Presidential appointees, which the Committee hopes will in turn accelerate the announcing, nominating, and possibly confirming phases of the process.

Section 6. Reduction of appointed positions requiring senate confirmation

This section requires each agency to prepare a plan to reduce both the number and layers of Senate-confirmed presidential appointees within the agency. It is intended that the preparation of the plan will give agencies the opportunity to recommend to the President and Congress whether any Senate-confirmed presidential positions in each agency should be eliminated.

Sec. 7. Attorney general review of conflict of interest law

This section requires OGE, in consultation with the Attorney General, to conduct a comprehensive review of conflict of interest laws relating to Federal employment. Such a review, which will consider the coordination and uniformity of both civil and criminal statutes, has not been done for a number of years.

Sec. 8. Effective date

This section provides that the amendments made by sections 3 and 4 take effect on January 1 of the year following the date of enactment of the Act, as long as the enactment takes place before July 1. If the Act is enacted on or after July 1, sections 3 and 4 take effect on July 1 of the following year. Sections 1, 2, 5, 6, 7 take effect on the date of enactment.

VI. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of the Standing Rules of the Senate requires that each report accompanying a bill evaluate “the regulatory impact which would be incurred in carrying out this bill.”

The enactment of this legislation will not have significant regulatory impact.

VII. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 10, 2002.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1811, the Presidential Appointments Improvement Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1811—Presidential Appointments Improvement Act of 2002

S. 1811 would amend the Ethics in Government Act of 1978 to simplify and streamline the financial disclosure requirements for executive branch personnel. The bill would direct the Office of Government Ethics and the Attorney General to conduct a study of conflict of interest laws relating to federal employment. S. 1811 also would require all executive agencies to submit a plan to the President and the Congress to reduce the number of Presidential appointments requiring Senate confirmation. Finally, the bill would increase the penalty for late filing of financial disclosure reports from \$200 to \$500.

CBO estimates that implementing S. 1811 would cost less than \$500,000 for the new disclosure form and studies, subject to the appropriation of the necessary funds. Enacting the bill could also increase the collection of governmental receipts (revenues) through late filing fees, but CBO estimates that any increase would not be significant. Because the bill could affect receipts, pay-as-you-go procedures would apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

VIII. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATOR LEVIN

As the Committee report notes, the financial disclosure requirements for federal employees are currently the same for all three branches of the federal government. S. 1811, however, would disturb that equanimity by amending the financial disclosure requirements for just the executive branch. While I support the effort to simplify our financial disclosure requirements, I believe any changes that are made to such requirements should be uniform for all three branches of government. If streamlining the financial disclosure requirements is a good idea for the executive branch, it should be a good idea for the legislative and judicial branches as well.

The current financial disclosure requirements were spawned in a series of Congressional scandals in the late 1980's that led us to tighten the ethics rules. In the 101st Congress, Senator Rudman and I introduced the Ethics Reform Act of 1989. This legislation was the product of months of review conducted by a Democratic Ethics Task Force, which I chaired, and a Republican Ethics Task Force, which was chaired by Senator Rudman. The bill was the first comprehensive reform of ethics laws in more than a decade.

Prior to 1989, there were separate financial disclosure requirements for each of the three branches. One of the major provisions in the Levin-Rudman legislation was strengthening the financial disclosure provisions and making them uniform for all three branches. The Levin-Rudman bill became Title II of the Ethics Reform Act, P.L. 101-184.

The Committee contends in its report that "because the record before the Committee focused exclusively on the issues regarding financial disclosure by executive branch nominees and employees, and the recommendations the Committee received raised concerns solely regarding the impact of the current requirements on executive branch nominees and employees, S. 1811 does not make any changes in such reporting for the legislative or judicial branches." While the focus of the Committee's work may have been executive branch nominees and employees, I am certain that the Committee could compile the same record to support the same changes to the financial disclosure requirements in S. 1811 for legislative and judicial nominees and employees as well.

The Committee also notes that there are differences in "actions that employees in the legislative and judicial branches, in comparison to employees in the executive branch, may be required to take based on financial disclosure information." For example, the Committee notes that executive branch officers and employees are subject to remedies such as divestiture and blind trusts that ensure that these individuals do not act on matters that could affect their

financial interests. In contrast, the Committee notes that according to the Senate Ethics Manual, financial interests and investments of Members and employees may present conflicts of interest but the Members and employees do not have to divest themselves of assets. This difference in remedial action does not mean that the financial disclosure requirements of the executive branch should be uniquely different.

The Committee also goes on to differentiate the judicial branch from the executive branch by stating that “financial disclosure also continues to serve an important function in deterring conflicts of interest for federal judges who are not under any obligation to divest any financial holdings while serving but must recuse themselves if they determine that a matter before the court presents a conflict with their financial or fiduciary interests.” This is not the point—S. 1811 does not abandon the financial disclosure requirements, it just streamlines them.

The Committee notes that the above reasons may not rule out changes in financial disclosure for the legislative or judicial branches, and that the issues presented for these two branches warrant separate study beyond the scope of the Committee’s inquiry at this time. Having worked on these issues in 1989 and studied the need for uniformity in financial disclosure among the three branches, I believe we have a sufficient understanding of the issues to determine that the same changes to the financial disclosure requirements of the executive branch should be made for the legislative and judicial branches as well. And, while I voted to report this bill to the full Senate, I hope to offer an amendment when the bill reaches the Senate floor to keep the disclosure requirements uniform and to expand the changes made by the bill to the executive branch to all three branches of the federal governments. With the Ethics Reform Act of 1989, we made a conscious effort to make the financial disclosure requirements for the three branches uniform. Nothing has occurred since that time to justify separate consideration at this time. I hope we will be able to expand the changes in this bill to all three branches before we vote on final passage.

CARL LEVIN.

IX. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1811 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

APPENDIX—ETHICS IN GOVERNMENT ACT OF 1978

TITLE I—~~FINANCIAL DISCLOSURE REQUIRE-~~ ~~MENTS OF FEDERAL PERSONNEL] JUDICIAL~~ ~~AND LEGISLATIVE PERSONNEL FINANCIAL~~ ~~DISCLOSURE REQUIREMENTS~~

SEC. 101. PERSONS REQUIRED TO FILE.

(a) Within ~~thirty~~ 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) *or section 201(f)* within ~~thirty~~ 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

(b)(1) Within ~~five~~ 5 days of the transmittal by the President to the Senate of the nomination of an individual ~~[(other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below)]~~ to a position *in the legislative or judicial branch*, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which

occurs **【five】** 5 days before the date of such hearing. Nothing in this Act shall prevent any **【Congressional】** *congressional* committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

(2) * * *

(c) Within **【thirty】** 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of **【President, Vice President, or】** Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent **【President, Vice President, or】** Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of **【sixty】** 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f) or *subsection 201(f)*.

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) **【the President;】** *a Member of Congress as defined under section 109(10);*

(2) **【the Vice President】** *an officer or employee of the Congress as defined under section 109(11);*

(3) **【each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;】** *a judicial officer as defined under section 109(8); and*

(4) [each employee appointed pursuant to section 3105 of title 5, United States Code;] *a judicial employee as defined under section 109(6).*

[(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

[(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

[(7) the Director of the Office of Government Ethics and each designated agency ethics official;

[(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President;

[(9) a Member of Congress as defined under section 109(12);

[(10) an officer or employee of the Congress as defined under section 109(13);

[(11) a judicial officer as defined under section 109(10); and

[(12) a judicial employee as defined under section 109(8).]

(g)[(1)] Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed [ninety] 90 days.

[(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

[(i) the last day of the individual's service in such area during such designated period; or

[(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

[(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.]

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by [the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics),] the congressional ethics committees[, or the Judi-

cial Conference, is not reasonably expected to perform the duties of his office or position for more than ~~【sixty】~~ 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than ~~【sixty】~~ 60 days in a calendar year—

(1) the report required by subsections (a) and (b) shall be filed within ~~【fifteen】~~ 15 days of the sixtieth day, and

(2) * * *

(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than ~~【one hundred and thirty】~~ 130 days in a calendar year, but only if the supervising ethics office determines that—

(1) * * *

(2) * * *

(3) * * *

(4) * * *

SEC. 102. CONTENTS OF REPORTS.

(a) Each report filed pursuant to section 101(d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$200 or more in value and~~【, effective January 1, 1991,】~~ the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) ~~【not】~~ *Not* more than \$1,000~~【,】~~.

(ii) ~~【greater】~~ *Greater* than \$1,000 but not more than \$2,500~~【,】~~.

(iii) ~~【greater】~~ *Greater* than \$2,500 but not more than \$5,000~~【,】~~.

(iv) ~~【greater】~~ *Greater* than \$5,000 but not more than \$15,000~~【,】~~.

(v) ~~【greater】~~ *Greater* than \$15,000 but not more than \$50,000~~【,】~~.

(vi) ~~【greater】~~ *Greater* than \$50,000 but not more than \$100,000~~【,】~~.

(vii) ~~【greater】~~ *Greater* than \$100,000 but not more than \$1,000,000~~【,】~~.

(viii) ~~【greater】~~ *Greater* than \$1,000,000 but not more than \$5,000,000~~【,】~~.

(ix) ~~【greater】~~ *Greater* than \$5,000,000.

(2)(A) * * *

(B) * * *

(C) * * *

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, [1] or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating \$5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) * * *

(5) * * *

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the [two-year] 2-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of \$5,000 in any of the [2] two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

(i) * * *

(ii) * * *

(Undesignated sentence at the end of subparagraph (B))

* * *

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to—

(A) * * *

(B) * * *

(C) * * *

(D) * * *

(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995, and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

(A) * * *

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than **[thirty-one]** 31 days before the filing date, and

(C) * * *

(2)(A) In lieu of filling out **[one]** 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

(B) * * *

(c) * * *

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), (5), and (8) of subsection (a) are **[as follows:]**—

(A) * * *

(B) * * *

(C) * * *

(D) * * *

(E) * * *

(F) * * *

(G) * * *

(H) * * *

(I) * * *

(J) * * *

(2) * * *

(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) * * *

(B) * * *

(C) * * *

(D) * * *

(E) * * *

(F) For the purposes of this section, categories with amounts or values greater than \$1,000,000 set forth in sections 102(a)(1)(B) and **[102]** (d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than \$1,000,000 shall be categorized only as an amount or value greater than \$1,000,000.

(The undesigned sentence at the end of paragraph (1)) * * *

(2) * * *

(f)(1) * * *

(2) * * *

(3) For purposes of this subsection, the term **[“qualified blind trust”]** includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest

in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; **[and]**

(II) * * *

(III) * * *

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

(I) * * *

(II) * * *

(III) * * *

(B) * * *

(C) The trust instrument which establishes the trust provides that—

(i) * * *

(ii) * * *

(iii) * * *

(iv) * * *

(v) * * *

(vi) * * *

(vii) * * *

(D) * * *

(E) For purposes of this subsection, **[“‘interested party’”]** means a reporting individual, his spouse, and any minor or dependent child; **[“‘broker’”]** has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and **[“‘investment adviser’”]** includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before **[the effective date of title II of the Ethics Reform Act of 1989]** *January 1, 1991*, shall continue to be governed by the law and regulations in effect immediately before such effective date.

(4)(A) * * *

(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

(I) * * *

(II) * * *

(III) * * *

(IV) * * *

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to **[the effective date of this Act]** *January 1, 1991*, which by its terms does not permit amendment, the trustee, the report-

ing individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

(ii) * * *

(5)(A) The reporting individual shall, within **[thirty]** 30 days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) * * *

(ii) * * *

(The undesignated sentence at the end of subparagraph (A))

* * *

(B) The reporting individual shall, within **[thirty]** 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within **[thirty]** 30 days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) * * *

(ii) * * *

(D) * * *

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within **[five]** 5 days of the date of the communication.

(6) * * *

(7) * * *

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(A) * * *

(B) * * *

(g) * * *

(h) * * *

(i) A reporting individual shall not be required under this title to report—

(1) financial interests in or income derived from—

(A) * * *

(B) * * *

(2) * * *

SEC. 103. FILING OF REPORTS.

(a) **[Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.] Each supervising ethics office shall develop and make available forms for reporting the information required by this title.**

(b) **【The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.】**

(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

*(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, **【the Office of Technology Assessment,】** or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and*

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(2) who is employed by an agency or commission established in the legislative branch after November 30, 1989—

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (3) and (4) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

(c) **【Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Gov-**

ernors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than individuals nominated to be judicial officers and those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.】 *A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 312(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.*

(d) 【Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.】 *(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.*

(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

(e) 【Each individual identified in section 101(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.】 *In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.*

【(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

【(g) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

【(h)(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives,

an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

[(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

[(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

[(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

[(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.]

SEC. 104. FAILURE TO FILE OR FILING FALSE REPORTS.

(a) * * *

(b) [The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each] *Each* congressional ethics committee[,], or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

(c) [The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a] A congressional ethics committee[,], and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of \$200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. [The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch..]

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

SEC. 105. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

(a) [Each agency, each] *The* supervising ethics office [in] of the [executive or] judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the

public, in accordance with subsection (b), each report filed under this title with such [agency or] office or with the Clerk or the Secretary of the Senate[, except that—].

[(1) this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, be revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

[(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.]

(b)(1) Except as provided in the second sentence of this subsection, [each agency, each] *the* supervising ethics office in the [executive or] judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within [thirty] 30 days after any report is received under this title by such [agency or] office or by the Clerk or the Secretary of the Senate, as the case may be,[,] permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The [agency,] office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) * * *

(B) * * *

(C) * * *

(Undesignated sentence at the end of paragraph (2)) * * *

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section [109(8) or 109(10)] 109(6) or (8) of this Act if a finding is

made by the Judicial Conference, in consultation with United States [Marshall] *Marshal* Service, that revealing personal and sensitive information could endanger that individual.

(B) A report may be redacted pursuant to this paragraph only—

- (i) to the extent necessary to protect the individual who filed the report; and
- (ii) for as long as the danger to such individual exists.

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

- (i) the total number of reports redacted pursuant to this paragraph;
- (ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and
- (iii) the types of threats against individuals whose reports are redacted, if appropriate.

(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

(c)(1) It shall be unlawful for any person to obtain or use a report—

- (A) for any unlawful purpose;
- (B) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (C) for determining or establishing the credit rating of any individual; or
- (D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) * * *

(d) Any report filed with or transmitted to [an agency or] a supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such [agency or] office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of [six] 6 years after receipt of the report. After such [six] 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed [one] 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

SEC. 106. REVIEW OF REPORTS.

(a)[(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government

Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.】 *Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within 60 days after the date of such filing.*

【(2) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.】

(b)(1) If after reviewing any report under subsection (a), 【the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official,】 a person designated by the congressional ethics committee【,】 or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If 【the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official,】 a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

(A) * * *

(B) * * *

(3) If 【the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official,】 a person designated by a congressional ethics committee【,】 or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) * * *

(B) * * *

(C) * * *

(D) * * *

(E) * * *

(The undesigned sentence at the end of paragraph (3))

* * *

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position 【in the executive branch (other than in the Foreign Service or the uniformed services),】 appointment to which requires the advice and consent of the Senate *but removal authority resides in the President*, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) 【by a member of the Foreign Service or the uniformed services, the Sec-

retary concerned shall take appropriate action.] *by any other officer or employee, the matter shall be referred to the congressional ethics committee or the Judicial Conference, for appropriate action.*

(6) [If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.] *Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.*

[(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.]

SEC. 107. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of [any department or agency] *the legislative or judicial branch* shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, *official codes of conduct* or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

(2) * * *

(3) * * *

(b) * * *

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize—(1) the receipt of income, gifts, or reimbursements; (2) the holding of assets, liabilities, or positions; or (3) the participation in transactions that are prohibited by law, [Executive order,] rule, or regulation.

SEC. 108. AUTHORITY OF COMPTROLLER GENERAL.

(a) * * *

(b) [No] *Not* later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

SEC. 109. DEFINITIONS.

For the purposes of this title, the term—

(1) [“]‘congressional ethics committees’[”] means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

(2) [“]‘dependent child’[”] means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) * * *

(B) * * *

(3) [“designated agency ethics official” means an officer or employee who is designated to administer the provisions of this title within an agency;] *‘gift’ means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—*

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

(4) [“executive branch” includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;] *‘honoraria’ has the meaning given such term in section 505 of this Act;*

(5) [“gift” means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

[“(A) bequest and other forms of inheritance;

[(B) suitable mementos of a function honoring the reporting individual;

[(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

[(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

[(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

[(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;] *'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;*

(6) [“honoraria” has the meaning given such term in section 505 of this Act;] *'judicial employee' means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;*

(7) [“income” means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;] *'Judicial Conference' means the Judicial Conference of the United States;*

(8) [“judicial employee” means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory

functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;] *'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;*

(9) ["Judicial Conference" means the Judicial Conference of the United States;] *'legislative branch' includes—*

(A) *the Architect of the Capitol;*

(B) *the Botanic Gardens;*

(C) *the Congressional Budget Office;*

(D) *the General Accounting Office;*

(E) *the Government Printing Office;*

(F) *the Library of Congress;*

(G) *the United States Capitol Police;*

(H) [the Office of Technology Assessment; and] *the Office of Compliance; and*

(I) *any other agency, entity, office, or commission established in the legislative branch;*

(10) ["judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;] *'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;*

(11) ["legislative branch" includes—

[A) the Architect of the Capitol;

[B) the Botanic Gardens;

[C) the Congressional Budget Office;

[D) the General Accounting Office;

[E) the Government Printing Office;

[F) the Library of Congress;

[G) the United States Capitol Police;

[H) the Office of Technology Assessment; and

[I) any other agency, entity, office, or commission established in the legislative branch;] *'officer or employee of the Congress' means—*

(A) *any individual described under subparagraph (B), other than a Member of Congress or the Vice President,*

whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

(ii) at least 1 principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(12) **["Member of Congress"** means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; **]** *'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;*

(13) **["officer or employee of the Congress"** means—

[(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

[(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

[(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; **]** *'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—*

(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(14) **["personal hospitality of any individual"** means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family; **]** *'relative' means an individual who is related to the reporting individual, as father, mother,*

son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancée of the reporting individual;

(15) **“reimbursement”** means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

[(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

[(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

[(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);]
‘supervising ethics office’ means—

(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers, or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers, and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title; and

(C) the Judicial Conference for judicial officers and judicial employees; and

(16) **“relative”** means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancée of the reporting individual;
‘value’ means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

(17) **“Secretary concerned”** has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

[(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

[(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

[(C) the Secretary of State, with respect to matters concerning the Foreign Service;

[(18) “supervising ethics office” means—

[(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

[(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title;

[(C) the Judicial Conference for judicial officers and judicial employees; and

[(D) the Office of Government Ethics for all executive branch officers and employees; and

[(19) “value” means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.]

SEC. 110. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

(a) In any case in which an individual agrees with [that individual’s designated agency ethics official, the Office of Government Ethics,] a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing [the designated agency ethics official, the Office of Government Ethics,] the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than [three] 3 months after the date of the agreement, if no date for action is so specified.

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with [such individual’s designated agency ethics official or] the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

SEC. 111. ADMINISTRATION OF PROVISIONS.

The provisions of this title shall be administered by—

(1) ~~the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section 101(f);~~ *the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (1) and (2) of section 101(f); and*

(2) ~~the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f); and~~ *the Judicial Conference in the case of an officer or employee described in paragraphs (3) and (4) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.*

~~(3) the Judicial Conference in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f). The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.~~

TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

SEC. 201. PERSONS REQUIRED TO FILE.

(a) *Within 30 days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 202(b) unless the individual has left another position described in subsection (f) of this section or section 101(f) of this Act within 30 days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.*

(b)(1) *Within 5 days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below) to a position in the executive branch, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 202(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 202(a)(1)(A) with respect to income and honoraria received as of the date which occurs 5 days before the date of such hearing. Nothing in this Act shall prevent any congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.*

(2) *An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required the first sentence of such paragraph.*

(c)(1) *Within 30 days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President or Vice President or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President or Vice President shall file a report containing the information described in section 202(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.*

(2) *Notwithstanding paragraph (1), within 30 days of taking the oath of office of President or Vice President, an individual shall file a report containing the information described in section 202(b) unless such individual served as President or Vice President immediately prior to taking that oath.*

(d) *Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of 60 days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 202(a).*

(e) *Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 202(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in or takes the oath of office for another position described in subsection (f) or section 101(f).*

(f) *The officers and employees referred to in subsections (a), (d), and (e) are—*

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policy-making character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service, each officer or employee of the United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(7) the Director of the Office of Government Ethics and each designated agency ethics official; and

(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President.

(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Office of Government Ethics, but the total of such extensions shall not exceed 90 days.

(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

(i) the last day of the individual's service in such area during such designated period; or

(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his office or position for more than 60 days in a calendar year—

(1) the report required by subsections (a) and (b) shall be filed within 15 days of the sixtieth day, and

(2) the report required by subsection (e) shall be filed as provided in such subsection.

(i) The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than 130 days in a calendar year, but only if the Director determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

SEC. 202. CONTENTS OF REPORTS.

(a) Each report filed pursuant to section 201 (d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, description, and category of value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), received during the preceding calendar year, aggregating more than \$500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and the date it was received.

(B) The source and description of investment income which may include but is not limited to dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$500 in amount or value.

(C) The categories for reporting the amount for income covered in subparagraphs (A) and (B) of this paragraph are—

(i) greater than \$500 but not more than \$20,000;

(ii) greater than \$20,000 but not more than \$100,000;

(iii) greater than \$100,000 but not more than \$1,000,000;

(iv) greater than \$1,000,000 but not more than \$2,500,000; and

(v) greater than \$2,500,000.

(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of \$100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

(B) The identity of the source and a brief description (including dates of travel and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5,

United States Code, or \$250, whichever is greater and received during the preceding calendar year.

(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$5,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposit accounts aggregating \$100,000 or less in a financial institution, or any Federal Government securities aggregating \$100,000 or less.

(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed \$20,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it. With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$20,000 as of the close of the preceding calendar year need be reported under this paragraph. Notwithstanding the preceding sentence, individuals required to file pursuant to section 201(b), shall also report the aggregate sum of the outstanding balances of all revolving charge accounts as of any date that is within 30 days of the date of filing if the aggregate sum of those balances exceeds \$20,000.

(5) Except as provided in this paragraph, a brief description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, or stocks, bonds, commodities futures, and other forms of securities, if—

(A) purchased, sold, or exchanged during the preceding calendar year;

(B) the value of the transaction exceeded \$5,000; and

(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section.

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the 1-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any edu-

cational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than a person reported as a source of income under paragraph (1)(A) or the United States Government, paid a nonelected reporting individual compensation in excess of \$25,000 in the calendar year prior to or the calendar year in which the individual files his first report under this title, the individual shall include in the report—

- (i) the identity of each source of such compensation; and
- (ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person or any information which the person for whom the services are provided has a reasonable expectation of privacy, nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of parties to and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer. The description of any formal agreement for future employment shall include the date on which that agreement was entered into.

(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 201 shall include a full and complete statement with respect to the information required by—

(A) paragraphs (1) and (6) of subsection (a) for the year of filing and the preceding calendar year,

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than 31 days before the filing date, and

(C) paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraph.

(2)(A) In lieu of filling out 1 or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the Office of Government Ethics or pursuant to a specific written determination by the Director for a reporting individual.

(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

(c)(1) *In the case of any individual referred to in section 201(d), the Office of Government Ethics may by regulation a reporting period to include any period in which the individual served as an officer or employee described in 201(f) and the period would not otherwise be covered by any public report filed pursuant to this title.*

(2) *In the case of any individual referred to in section 201(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.*

(d)(1) *The categories for reporting the amount or value of the items covered in paragraph (3) of subsection (a) are—*

- (A) greater than \$5,000 but not more than \$15,000;*
- (B) greater than \$15,000 but not more than \$100,000;*
- (C) greater than \$100,000 but not more than \$1,000,000;*
- (D) greater than \$1,000,000 but not more than \$2,500,000;*
- and*
- (E) greater than \$2,500,000.*

(2) *For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.*

(3) *The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are—*

- (A) greater than \$20,000 but not more than \$100,000;*
- (B) greater than \$100,000 but not more than \$500,000;*
- (C) greater than \$500,000 but not more than \$1,000,000; and*
- (D) greater than \$1,000,000.*

(e)(1) *Except as provided in the last sentence of this paragraph, each report required by section 201 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:*

(A) *The sources of earned income earned by a spouse including honoraria which exceed \$500 except that, with respect to earned income if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.*

(B) *All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.*

(C) *In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.*

(D) *In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.*

(E) *In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items which the reporting individual certifies (i) represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) that he neither derives, nor expects to derive, any financial or economic benefit.*

(F) *Reports required by subsections (a), (b), and (c) of section 201 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.*

(2) *No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.*

(f)(1) *Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.*

(2) *A reporting individual need not report the holdings of or the source of income from any of the holdings of—*

(A) *any qualified blind trust (as defined in paragraph (3));*

(B) *a trust—*

(i) *which was not created directly by such individual, his spouse, or any dependent child, and (ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or (C) an entity*

described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the entity under subsection (a)(1)(B) of this section.

(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the Office of Government Ethics.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and the Office of Government Ethics when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) *an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;*

(vi) *except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only*

(I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) *the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.*

(D) *The proposed trust instrument and the proposed trustee is approved by the Office of Government Ethics.*

(E) *For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.*

(4)(A) *An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.*

(B)(i) *The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or*

the spouse, dependent child, or minor child of such a person, if the Office of Government Ethics finds that—

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

(5)(A) The reporting individual shall, within 30 days after a qualified blind trust is approved by the Office of Government Ethics, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(B) The reporting individual shall, within 30 days of transferring an asset (other than cash) to a previously established qualified blind trust, notify the Office of Government Ethics of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within 30 days of the dissolution of a qualified blind trust, a reporting individual shall notify the Office of Government Ethics of such dissolution.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made

available under section 205 and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the Office of Government Ethics within 5 days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently,

(i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection;

(ii) acquire any holding the ownership of which is prohibited by the trust instrument;

(iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or

(iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$10,000.

(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000.

(7) Any trust may be considered to be a qualified blind trust if—

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the Office of Government Ethics, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the Director of the Office of Government Ethics determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(A)(i) the fund is publicly traded; or

(ii) the assets of the fund are widely diversified; and

(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(9)(A)(i) A reporting individual described in subsection (a) or (b) of section 201 shall not be required to report the holdings or sources of income of any trust or investment fund where—

(I) reporting would result in the disclosure of assets or sources of income of another person whose interests are not required to be reported by the reporting individual under this title;

(II) the disclosure of such assets and sources of income is prohibited by contract or the assets and sources of income are not otherwise publicly available; and

(III) the reporting individual has executed a written ethics agreement which contains a general description of the trust or investment fund and a commitment to divest the interest in the trust or investment fund not later than 90 days after the date of the agreement.

(ii) An agreement described under clause (i)(III) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

(B)(i) The provisions of subparagraph (A) shall apply to an individual described in subsection (d) or (e) of section 201 if—

(I) the interest in the trust or investment fund is acquired involuntarily during the period to be covered by the report, such as through marriage or inheritance, and

(II) for an individual described in subsection (d), the individual executes a written ethics agreement containing a commitment to divest the interest no later than 90 days after the date on which the report is due.

(ii) An agreement described under clause (i)(II) shall be attached to the public financial disclosure which would otherwise include a listing of the holdings or sources of income from this trust or investment fund.

(iii) Failure to divest within the time specified or after an extension granted by the Director of the Office of Government Ethics for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(h) A report filed pursuant to subsection (a), (d), or (e) of section 201 need not contain the information described in subparagraphs

(A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

(i) A reporting individual shall not be required under this title to report—

(1) financial interests in or income derived from—

(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

(2) benefits received under the Social Security Act (42 U.S.C. 301 et seq.).

(j)(1) Every month each designated agency ethics officer shall submit to the Office of Government Ethics notification of any waiver of criminal conflict of interest laws granted to any individual in the preceding month with respect to a filing under this title that is not confidential.

(2) Every month the Office of Government Ethics shall make publicly available on the Internet—

(A) all notifications of waivers submitted under paragraph (1) in the preceding month; and

(B) notification of all waivers granted by the Office of Government Ethics in the preceding month.

(k) A full copy of any waiver of criminal conflict of interest laws granted shall be included with any filing required under this title with respect to the year in which the waiver is granted.

(l) The Office of Government Ethics shall provide upon request any waiver on file for which notice has been published.

SEC. 203. FILING OF REPORTS.

(a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 201(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President and the Vice President shall file reports required under this title with the Director of the Office of Government Ethics.

(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2) (A) or (B), 106(a)(1) (A) or (B), or 107 (a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions within the executive branch which require confirmation by the Senate shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

(e) Each individual identified in section 201(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

SEC. 204. FAILURE TO FILE OR FILING FALSE REPORTS.

(a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 202. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000.

(b) The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as the may be, shall refer to the Attorney General the name of any individual which such official has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, or the head of each agency may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 201(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the Office of Government Ethics, pay a filing fee of \$500. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the Office of Government Ethics to other agencies in the executive branch.

(2) The Office of Government Ethics may waive the filing fee under this subsection for good cause shown.

SEC. 205. CUSTODY OF AND PUBLIC ACCESS TO REPORTS.

(a) Each agency and the Office of Government Ethics shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or Office except that this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the

National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest.

(b)(1) Except as provided in the second sentence of this subsection, each agency and the Office of Government Ethics shall, within 30 days after any report is received under this title by such agency or Office, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 201(g). The agency or the Office of Government Ethics may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

- (A) that person's name, occupation, and address;*
- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and*
- (C) that such person is aware of the prohibitions on the obtaining or use of the report.*

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

- (A) for any unlawful purpose;*
- (B) for any commercial purpose, other than by news and communications media for dissemination to the general public;*
- (C) for determining or establishing the credit rating of any individual; or*
- (D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.*

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or the Office of Government Ethics pursuant to this title shall be retained by such agency or Office, as the case may be. Such report shall be made available to the public for a period of 6 years after receipt of the report. After such 6-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President unless needed in an ongoing investigation.

SEC. 206. REVIEW OF REPORTS.

(a) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted to complete the form or to perform a conflict of interest analysis, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, the Secretary concerned, or the designated agency ethics official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

- (C) the establishment of a blind trust,
- (D) request for an exemption under section 208(b) of title 18, United States Code, or
- (E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the Office of Government Ethics may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) The Office of Government Ethics may render advisory opinions interpreting this title. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

SEC. 207. CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS.

(a)(1) The Office of Government Ethics may require officers and employees of the executive branch (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as it may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the Office of Government Ethics, and may be less extensive than otherwise required by this title, or more extensive when determined by the Office of Government Ethics to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 205 shall not apply with respect to any such report.

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

SEC. 208. AUTHORITY OF COMPTROLLER GENERAL.

The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

SEC. 209. DEFINITIONS.

For the purposes of this title, the term—

(1) ‘dependent child’ means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152);

(2) ‘designated agency ethics official’ means an officer or employee who is designated to administer the provisions of this title within an agency;

(3) ‘executive branch’ includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

(4) ‘gift’ means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

(E) *communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or*

(F) *items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code.*

(5) *'honoraria' means a payment of money or anything of value for an appearance, speech, or article;*

(6) *'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; prizes and awards; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;*

(7) *'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;*

(8) *'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—*

(A) *provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;*

(B) *required to be reported by the reporting individual under section 7342 of title 5, United States Code; or (C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);*

(9) *'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiancé or fiancée of the reporting individual;*

(10) *'Secretary concerned' has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—*

(A) *the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;*

(B) *the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and*

(C) *the Secretary of State, with respect to matters concerning the Foreign Service; and*

(11) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

SEC. 210. NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.

(a) *In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, or a Senate confirmation committee, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, or the appropriate committee of the Senate, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than 3 months after the date of the agreement, if no date for action is so specified. If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement.*

(b) *If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the Office of Government Ethics within the time prescribed in the penultimate sentence of subsection (a).*

SEC. 211. ADMINISTRATION OF PROVISIONS.

The Office of Government Ethics shall issue regulations, develop forms, and provide such guidance as is necessary to implement and interpret this title.